

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF MAY 7, 2007**

A. CALL TO ORDER

Commissioners Present: Harris, Krebs, Overberger, Schinner, Sisich, Zwick
Commissioners Present: None

B. OPEN TIME FOR PUBLIC EXPRESSION

There were no comments from the audience.

C. CONTINUED ITEMS

1. **DR-0712/U-0705 – David and Elizabeth Bordeson, 49 Cedar Street, APN 007-222-57**, Use Permit/Design Review of an incline elevator within 3' of the north side property line, a ±447 square foot carport within 0' of the north side and 20' of the east side property lines, retaining walls with open wire mesh fence that varies in height from 6' up to a maximum of 7' in height along the north and south side property lines, decks on grade; and a hot tub, located in the SPD zoning district. (staff person: Chambers). **CONTINUED TO MAY 21, 2007.**

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

Public Comments: Klaus Werner, Tamalpais Avenue, expressed concern about the noise from the exhaust pipe at 777 San Anselmo Avenue. The Commission moved this item to the Regular Agenda for discussion.

1. **Minutes – April 16, 2007**
2. **Town of San Anselmo, Police Department, 525 San Anselmo Avenue, APN 007-213-70**, design review of new windows.

M/s Harris/Sisich and unanimously passed to approve the minutes with minor corrections, and Item 2 (525 San Anselmo Avenue) of the Consent Agenda. The audience was advised of the 10-day appeal period to the Town Council.

REGULAR AGENDA

3. **Town of San Anselmo, Ross Valley Fire Service Station 19, 777 San Anselmo Avenue, APN 007-211-43**, design review of a 1,341± square foot first story addition and 583± square foot second story addition, and other exterior alterations including new windows, doors, and accessible ramps.

Planning and Building Director Wight presented the staff report, noting that the Commission is acting in an advisory capacity.

Klaus Werner, Tamalpais Avenue, expressed concerned about the position of an exhaust pipe, the noise from which disturbs his tenants. In response, Wight said the addition is on the west side of the building, and not near Tamalpais Avenue where subject pipe is located.

Fire Chief Roger Meager discussed the exhaust system and confirmed that the proposed addition will not affect it. A muffler was installed a few years ago to reduce the noise level, but it cannot be eliminated altogether, and it cannot be moved due to the location of other apparatus.

Wight said that the Town Council will consider the project and that she will forward this evening's comments to them in writing.

Commissioner Harris recommends approval of the staff report with the suggestion that action is taken to help the situation if it is at all feasible, but that it would not be appropriate if it is a major undertaking.

Chair Krebs echoed Commissioner Harris' comments.

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M/s Harris/ Sisich and unanimously approved (6-0) to move the staff report and recommend approval of the project to the Town Council.

4. **DR-0707 – Scott and Heidi McCarthy, 114 Alder Avenue, APN 007-041-20,** Setback and Flatland Design Review to add first and second story additions totaling ±2,010 square feet within ±6'-2" of the east side property line, located within the R-1 zoning district. (staff person: Chambers)

Assistant Planner Chambers presented the staff report recommending approval of the revised project, and said it was her understanding that the applicants and next door neighbors have reached a compromise, which is reflected in the drawings.

Scott McCarthy, applicant, said that they have reduced the second floor substantially, in addition to reducing the size of the garage. Their neighbor who was most concerned has written a letter of support that Mr. McCarthy presented to staff.

Dan Phipps, architect representing the applicant, discussed the changes to the second floor in more detail and noted that the concerns of the Commission and the neighbors have been addressed.

Commissioner Zwick said that a good compromise has been reached and a nice house has been designed. All other Commissioners were in agreement.

M/s Overberger/Harris, and passed unanimously, to approve the staff report. The audience was advised of the ten day appeal period to the Town Council.

5. **DR-0708 – Scott and Toni Pinsky, 68 Longwood Drive, APN 006-262-23,** Hillside Design Review to add a ±884 square foot two story addition and decks/stairs totaling approximately 713 square feet, located within the R-1 zoning district (above 150' msl). (staff person: Chambers).

Assistant Planner Chambers presented the staff report recommending approval of the revised project, noting modifications to the plans based on the comments of the neighbor and Commissioners at the last hearing, and that staff is now able to support the project.

Commissioner Zwick and Mr. Kler, architect for the project, discussed the changes to the design. Mr. Kler noted that the addition had been reduced by 18 feet by placing the bathrooms downstairs.

Discussion ensued about foliage planting. Mr. Kler said they would like to work with the neighbors on the type of trees that would provide screening, rather than submit a formal landscape plan. Chambers noted that staff does not feel that a formal landscape plan is necessary with the new design, but she suggested the neighbor speak on the subject.

Margaret Gorin, Longwood Drive, said that she appreciates the changes that have been made and withdraws her objections to the project.

Mr. Pinsky, applicant, discussed the reasons they believe that conditions of approval to provide a landscape plan and a deed restriction on colors are unnecessary.

Commissioner Schinner said that he supports the project, and that he favors the condition of approval regarding a landscape plan. However, he agrees that the deed restriction for exterior colors is not necessary.

Zwick said that a good design has been achieved and that he supports the staff report. He favors the deed restriction on colors because it has been applied to other projects in the hillside, and he does not believe that a full landscape plan is necessary.

Commissioner Harris said that he echoes the comments of the prior Commissioners, and that he likes the design. Furthermore, conditions of approval provide a means by which a condition can be enforced, and he suggested that confirmation be provided that the owners and neighbor reach agreement on screening, although a formal landscaping

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plan would not be necessary. However, he supports the deed restriction for the colors for future owners.

In response to Commissioner Krebs, Ms. Gorin said that she would wish for trees to be planted to provide privacy.

Commissioner Overberger said that she did not favor the deed restriction being made a condition of approval, and staff explained the reasons for the deed restriction rule, which is to assure that future owners are aware of the approved colors.

Zwick explained why he approves of the rule, and Commissioner Sisich noted that the Commission has been enforcing the rule for past projects.

M/s Harris/Sisich, and failed (2-4 against: Zwick/Overberger/Schinner/Krebs) to support the staff report with the added condition that the owner of 72 Longwood review the tree proposal, with final determination to be made by staff prior to the building permit being issued.

M/s Sisich/Schinner, and passed, (4-2 against: Harris/Overberger) to move the staff report and approve the project. The audience was advised of the ten day appeal period to the Town Council.

6. **V-0712/DR-0713 - William Burke and Carissa Guirao, 76 Jordan Avenue, APN 006-158-04**, Setback Variances for an entry addition to be located within 11.87'± of the front property line (Code setback: 20'), a family room addition to be located within 17.16'± of the front property line (Code setback: 20'), and a deck and walkway to be located within 1.38'± of the rear property line and within 1.52'± of the south side property line (Code setbacks: 14' and 6' respectively); and Hillside Design Review of a 79± square foot first story entry addition, a 400± square foot first and second story family room addition, a 175± square foot second story deck and walkway, and a 234± square foot roof deck and bridge walkway located within the R-1 zoning district (above 150 msl elevation). (staff person: Wight).

Planning and Building Director Wight introduced the staff report, pointing out that the deck and walkway on the east side of the property would partly cover a public utility easement, for which permission from the various utility companies has been obtained. Wight said staff is able to support the project with the special circumstance finding being the substandard lot depth, which makes it difficult for the project to conform to setbacks. She said that the addition would be tucked into the hillside and that although the deck and walkway on the south side would be visible from surrounding hillsides, it would be insignificant. Although a color board has been submitted, Wight recommended that the specific color approval be delayed until the addition is framed as it is difficult to determine whether the proposed light colors would have a visual impact to surrounding hillside properties. The light colors might be suitable because the lot is tucked into the hillside, and the proposed colors are certainly more in keeping with the low visual profile theme than the existing colors. Wight noted letters of support had been received from some neighbors, which were included in the Commissioners' packets.

Commissioner Harris questioned the status of the garage in terms of parking accessibility, to which Wight noted that the office furniture is not permanent and the garage is accessible for the legal number and size of parking spaces.

Tom Levine, designer, said the house is comparatively small and that the family has made use of the large garage. He said that other designs they have considered exceeded FAR regulations, and that this seems a good design for his clients.

No-one from the public wished to speak.

Commissioner Zwick said that the project is complicated and he complemented the architect. He supports the project but agrees with staff that the colors might be too light, and he recommends that staff approve the final colors.

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M/s Overberger/Zwick and unanimously passed (6-0) to approve the project and the conditions attached to the report. The audience was advised of the 10-day appeal period to the Town Council.

7. **V-0711 - Patrick and Laura Stallone, 191 Butterfield Avenue, APN 005-062-65**, Setback Variance to add a ±498 square foot addition, a portion of which encroaches within 7'-6" of the south side property line (Code: 12'), located within the R-1 zoning district. (staff person: Chambers)

Assistant Planner Chambers introduced the staff report, noting that staff is unable to support the project.

Jeff Kroot, architect, said the problem with the site is the road which is placed close to the property line and the outside patio just on the other side of the fence. There have been lawsuits on the other side of the street regarding the location of private and public right-of-way locations. The other problem is that Butterfield is one of the busier streets and people cut across and accelerate up the hill and it is noisy. For these reasons the covered patio currently functions as a storage area. Due to the configuration of the house, this is the most logical place for the addition, and the one story addition is not any higher than the existing structure, so it will not be very visible from the street. Due to the location of the telephone pole, he said it would be impractical to require a sidewalk.

Chambers noted that the issue of the sidewalk is a public works decision and would be ultimately determined by the Public Works Director

Patrick Stallone, applicant, said the patio is not a usable area because it is right next to the road. As proposed, the space would be utilized by a nice family room, rather than a giant dog house. There is a lot of noise from the cars that travel up Carlson Avenue and by enclosing the space they will not hear the noise.

Commissioner Harris said that the existing wall of the kitchen is in the setback and this proposal is not encroaching any further.

Commissioner Sisich said he appreciates how staff came to the conclusion to not support the project, but he felt findings of location could be made. Requiring a 12' setback penalizes the trapezoidal lot and the house does not sit parallel on the lot. Therefore, he believes special circumstances are the location and surroundings, to which Commissioners Zwick and Overberger agreed.

Harris said the existing house was built prior to the 12' setback and the property would be penalized, and since this is a side yard setback with neighbor support, he supports the project but he does not support traffic issue as a basis for approval.

Commissioner Schinner felt that the location of the road is an exacerbating factor that warrants the variance, in addition to the noise factors of the vehicles that go by so close to their yard. Regarding the issue of a sidewalk, if it is unsafe for kids to walk along the road, then a sidewalk is appropriate.

Chair Krebs supports the sidewalk, but leaves the decision to the Public Works Director, and feels special circumstances are the relatively small size and shape of the lot.

M/s Sisich/Overberger, and passed (5-1 No: Harris), to approve the proposal and grant the variance based on findings that due to the subject property's shape and location, the granting of the variance would not be a special privilege given the property's location on a corner and its' trapezoidal shape and placement of the improvements on the site, the granting of the side setback would not be the granting of special privileges granted to those on interior lots. The audience was advised of the ten day appeal period to the Town Council.

8. **Z-0702 - Joe Maguire, 1531, 1533, 1535, 1537 Sir Francis Drake Blvd and 152, 156, 160, 164 Oak Knoll Avenue, APN-005-153-45**, Amendment to the Specific Plan to change the use of the building fronting on Sir Francis Drake Boulevard from 4 townhouses and 4 workforce apartment units to 6 townhouses

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and 2 workforce apartment units (the use of the two detached single family dwellings under construction to remain single family). (staff person: Wight)

Commissioner Zwick recused himself and left the room.

Planning and Building Director Wight introduced the staff report, noting that the same number of units will be retained, such that the previously approved 4 townhouses and 4 workforce apartments would be changed to 6 townhouses and 2 workforce apartments. Wight noted that the project as proposed would be consistent with the Housing Element of the General Plan. The applicant and his realtor have provided information indicating that 4 moderate units makes the project unaffordable.

In response to Commissioner Harris' inquiries, Wight advised that the required finding is that the project is consistent with the General Plan and that this application is an amendment to a previously approved specific plan. Harris said that economics is not something they've entertained before and is not a criteria they consider. Wight said that if the Commission feels they would not have approved the project based on what is being proposed now, then they can turn it down on that basis.

Commissioner Overberger said that the applicant is meeting the criteria that would have been applied to him when his initial proposal was reviewed, and this is the information she needs to be dealing with, rather than what went on previously.

Joe Maguire, applicant, said that the Commission originally approved 3 detached houses, 4 townhouses and 4 workforce units, and then he lost one of the 3 houses at the Town Council level. He said he finds it is not possible to provide 4 moderate income units. He has worked with staff on ways to move ahead and his realtor has tried to sell it to various non-profit groups, including Habitat for Humanity. With low income housing, economics is something to consider and the main purpose of the third house was to pay for the low to moderate income housing, which did not work out when the third house was denied, additional soils testing was required, and the project was delayed.

Jim McDonald, architect, said that when he was hired the agreement was that he would design the project based on the applicant's original density decisions, and that he was not involved in the decision process. He is pleased with the dwellings under construction, and the applicant showed good intent with an overzealous enthusiasm for the 4 low to moderate income housing units, but now realizes that he needs to reduce it to 2. It will be a project that will be well received.

Joe Hartnett, Medway Road, said he is against the proposal. What is being built now is good, high quality but it is taking too long to have it done. He commented on the project taking too long and it appears that work is not happening. Upset that what has been decided is now being changed. He should get the work done and the rules should be applied.

John Adams, Medway Road, agreed with Mr. Hartnett, that the specific plan should not be changed, as the developer's profit is being put before the Town's needs. People need to consider that there were a lot of units on a small lot and they're still concerned with density and parking. It's been a long, delayed project and changes to grading have taken place, which has affected to his property line. He wants the workforce housing maintained.

Joe Maquire said he started the project in 2002 and that the multiple soils testing contributed to the delay and costs of the project - \$46,000 for 3 soil testings. He is concerned that there are some citizens who don't want anything to be built on that location and that if it is financially infeasible is what will happen. He has agreed to pay for the Oak Knoll road widening, sidewalks and the sewer costs went up in October to \$40,000 and water is \$75,000. Things cost a lot of money. He commented on the framing of the houses and the reasons it is taking a long time. The pre-fab can be constructed faster than stick frame, and he hopes to use pre-fab construction for this building.

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Harris inquired of the applicant whether 3 affordable units would be possible. The applicant said he does not believe his costs would be covered. He can't borrow enough money to build the units.

Mr. McDonald confirmed they have not increased the density of the project and they want to continue with the architectural theme, with no design changes.

Commissioner Sisich said that of all the people who would be troubled by the current proposal, it would be him because he is a housing advocate. However, based on his experience in his profession, he said it is impossible to do a housing project with 40% affordable. The important thing to do here is to go back and look at what was here on this property. This was blighted property with a commercial use. 20 units per acre (10 units) are not too dense; he works with projects that are 30 units per acre and those projects work. This is a transitional site between Sir Francis Drake Boulevard and the single family residential neighborhood. If the applicant had proposed 20% initially (2 units), he would have supported that application. The cost and time of soils testing, utilities, etc. is real.

Harris said he is sympathetic with the applicant that he is being straight with us and he believes the applicant is doing the right thing, but at the same time he is not comfortable about ruling on an economic situation. It injects a significant factor that should not be in their thought process. He noted that the project as proposed would meet the existing standards for affordable housing at 20% or exceed it and that leaves him on the fence. Aesthetically, the project is a vast improvement on what was there before.

Overberger said that due to the circumstances today, she would probably support the project, although she can't believe as a developer, he wouldn't have a good Excel spreadsheet that would have told him some time ago this would be high risk to get 40%.

Commissioner Schinner said this project complies with the law and he would approve it if it were here today for the first time. If we stick to the fact that it is a change, we don't need to get into the economics and it complies with the law and he will favor the change from a 4:4 to a 4:2 project. He would also support a 5:3 proposal.

Chair Krebs said on its face it looks like it is acceptable because it meets the legal requirements, but he is concerned about the balance. He might recommend to the Council for two, but if possible, consider three units as a compromise.

Harris questioned whether there is a way to make a recommendation to the Town Council such that towards the end of construction, the Council could ask how things are played out at that point – and then decide on 2 or 3 affordable uses. We're not here to ensure a profit or a bath, but he volunteered 4 and is now asking for 2, and perhaps he could do 3.

Deputy Town Attorney Todd Smith said the role of the Commission is to make a recommendation to the Council on the application to change 2 of the low to moderate units to 2 market rate units. He said delaying a decision until the end of the project and determining the potential profit, is not something that the Town wants to get into.

M/s Sisich, Overberger, to move the staff report to approve the Resolution next in order recommending to the Town Council that they adopt an ordinance amending the specific plan on the grounds that it is consistent with the Housing Element of the General Plan. Motion carried: Ayes: Sisich, Schinner, Overberger; Noes: Krebs, Harris

Commissioner Zwick returned to the podium and Commissioner Schinner excused himself.

9. **Z-0701/ER-0701 - TOWN OF SAN ANSELMO**, Environmental Review (Negative Declaration) and Revisions to the Zoning Ordinance of the Town of San Anselmo (including development standards for structures: setbacks, height, lot coverage, and floor area; fences and vegetative screening; parking and driveways; demolition of structures; definitions and uses; required findings; design review; nonconforming structures), and additional recommendations from the Zoning Ordinance Sub-Committee for future consideration.

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Planning and Building Director Wight explained that for those items listed in Section 1 there seemed to be consensus at previous meetings and suggested that the Commission recommend approval of those items to the Town Council, and discuss those items in Section 2 at this meeting.

The Commission made minor changes to Section 1: New Section 10-3.14.505(e). Required findings for a minor exception, should read ". . . 100 square feet, which is lesser . . ." and the proposed FAR exception in Table 4B be deleted. The Commission directed staff to return with a Resolution of Approval on June 5th for those items in Section 1 of the staff report.

Discussion ensued on the FAR proposal for the flatland residential properties. Questions posed were whether or not to include garage area in FAR, to count double height space, which adds more mass, but can result in a good design, to count stairs one or twice, to count basements because they do not add bulk, if the design review findings are tweaked, should we still employ FAR, and should there be a sliding scale for FAR.

Harris and Zwick discussed double vaulted ceilings and staircases. Sisich noted that a combination of FAR and lot coverage would be favorable, but together they still don't address the quality of design. Zwick said that the Zoning Ordinance Sub-Committee had many meetings on FAR and he would be disappointed if it is not employed.

Wight suggested she provide enhanced design review findings and a sliding FAR scale for the next meeting. It was agreed that they would spend the first hour and a half of the next meeting on the Zoning Ordinance amendments discussion.

Jonathan Braun, Scenic Avenue, suggested the current neighborhood character finding be included in Design Review because character does exist and it should be incorporated as part of the mix.

Zwick questioned whether the County has a means to come up with a list of those lots under a specific square footage, to which Wight advised she would inquire.

E. ITEMS FROM PLANNING COMMISSION

In response to Overberger, Smith said that discussion regarding changes to the hours of construction could be placed on the agenda, which Wight could undertake.

Zwick suggested that the Town not accept blue prints to encourage recycling.

F. ITEMS FROM STAFF

Wight announced the impending departure of staff member Joanne O'Hehir from the Town's employment and the Commission wished her well.

G. ADJOURNMENT

The meeting was adjourned at 10:40 p.m. to the next regular meeting on May 21, 2007.

Respectfully submitted by:

Planning Staff